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1800 N. Military Trail  
Suite 160  
Boca Raton, FL 33431

O., J.

The Roman Catholic Diocese of Rochester  
Villa of Hope  
Sisters of Saint Joseph of Rochester, Inc.

Total Fees Paid: \$0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE  
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ADAM J BELLO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF MONROE

-----X

J.O.,

Plaintiff,

**COMPLAINT**

-against-

THE ROMAN CATHOLIC DIOCESE OF  
ROCHESTER, BISHOP SALVATORE RONALD  
MATANO, VILLA OF HOPE F/K/A ST. JOSEPH'S  
VILLA, SISTERS OF SAINT JOSEPH OF  
ROCHESTER, INC.

Index No. \_\_\_\_\_

Defendants.

-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, J.O., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

**Introduction**

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when he was a minor, was sexually assaulted by a Priest of the Diocese of Rochester, Austin Hanna, who was assigned to St Joseph's Villa, now known as Villa of Hope.

**Parties, Jurisdiction and Venue**

1. Plaintiff, J.O., is a citizen and resident of the State of New York. Plaintiff brings this Complaint using his initials because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if his identity as a victim of child sexual abuse were to become

publicly known. His identity will be made known to Defendant, at the latest, upon service of the Summons and Complaint.

2. Defendant, Diocese of Rochester, and Salvatore Ronald Matano as Bishop and Corporate Sole of the Diocese of Rochester (hereafter, the “Diocese”) is a religious institution and organization with principal offices located at 1150 Buffalo Rd, Rochester, NY 14624. The Diocese of Rochester controls all Catholic religious, pastoral and educational functions in 12 counties in New York, with approximately 125 faith communities (parishes and chapels), 22 diocesan elementary schools and 7 independent parochial high schools.

3. Defendant, Villa of Hope f/k/a St. Joseph’s Villa (“St. Joseph’s Villa”), is a Catholic orphanage. At all relevant times, St. Joseph’s Villa was owned, controlled and operated by the Diocese of Rochester.

4. Defendant, Sisters of Saint Joseph of Rochester, Inc. (“Sisters of St. Joseph”), also known as the Congregation of the Sisters of St. Joseph is a Roman Catholic religious congregation of women. At all relevant times, St. Joseph’s Villa was run by the Sisters of Saint Joseph of Rochester.

5. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

6. Personal jurisdiction lies over Defendants Diocese, St. Joseph’s Villa and the Sisters of St. Joseph as they are present and domiciled in the State of New York.

7. Venue of this action lies in Monroe County as a substantial part of the events or omissions giving rise to the claim occurred in Monroe County or one of the Defendants resides in Monroe County.

**Facts of Sexual Abuse**

8. Plaintiff became an orphan at the age of five when he lost both his parents.
9. Plaintiff was an orphan at St. Joseph's Villa from 1973 to 1976 between the ages of eight to twelve.
10. While at St. Joseph's Villa, Plaintiff's residence was overseen by Sister Betty. Plaintiff was assigned to chapel duty by Sister Betty to assist Father Hanna at the age of eight.
11. Father Hanna started to sexually abuse Plaintiff when he was assigned to chapel duty at eight years old. For the first couple of years, the sexual abuse consisted of fondling and oral sex. When Plaintiff turned ten, Father Hanna sodomized Plaintiff multiple times a week for the following two years. Most of the sexual abuse occurred in the chapel and in Father Hanna's studio-like apartment located in the chapel.
12. Father Hanna's sexual abuse caused Plaintiff physical injury. He experienced rectal bleeding and soiled his underwear. Sister Betty found Plaintiff's soiled underwear and accused him of being promiscuous at the age of ten. Plaintiff was apprehensive about disclosing Father Hanna's sexual abuse and stayed silent. She then beat him without asking any questions.
13. Sister Betty found Plaintiff's soiled underwear for a second time. She hit Plaintiff's genitals and forced him to the chapel to confess his "sins" to Father Hanna. Sister Betty left Plaintiff in the chapel where Father Hanna then forced Plaintiff to perform oral sex on him.
14. Upon information and belief, there were rumors at St. Joseph's Villa that Father Hanna was having sex with Plaintiff. The Sisters at the Chapel, specifically Sister Betty, failed to investigate said rumors.
15. Plaintiff was not only sexually abused by Father Hanna, he was also sexually abused by older boys at St. Joseph's Villa on multiple occasions. Plaintiff was fondled and

sodomized by the older boys at the facility during the time allotted for showers. The Sisters had notice of the rampant sexual abuse that occurred mostly during showers as there were many complaints and, on some occasions, the Sisters witnessed the sexual abuse. Nevertheless, the sexual abuse continued.

16. Plaintiff's sexual abuse by Father Hanna and the older boys at the facility ceased when Plaintiff was assigned to a foster home in 1976.

17. Upon information and belief, Father Hanna was at all relevant times a serial sexual predator who sexually abused multiple boys over a period of decades.

18. At all relevant times, the Diocese, St. Joseph's Villa and the Sisters of St. Joseph knew or in the exercise of reasonable care should have known that Father Hanna had a propensity for the misconduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual abuse of children.

19. At all relevant times, it was reasonably foreseeable to the Diocese, St. Joseph's Villa and the Sisters of St. Joseph that Father Hanna would commit acts of child sexual abuse or assault on a child.

20. At all relevant times, Diocese, St. Joseph's Villa and the Sisters of St. Joseph knew or should have known that Father Hanna was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/or protection.

21. With such actual or constructive knowledge, the Diocese, St. Joseph's Villa and the Sisters of St. Joseph provided Father Hanna unfettered access to Plaintiff and gave him the opportunity to commit foreseeable acts of child sexual abuse or assault.

22. At all relevant times, the Diocese, St. Joseph's Villa and the Sisters of St. Joseph knew or in the exercise of reasonable care should have known that older boys residing in St. Joseph's Villa had a propensity for the misconduct which caused injury to Plaintiff, in particular.

23. With such actual or constructive knowledge, the Diocese, St. Joseph's Villa and the Sisters of St. Joseph continued to allow unsupervised showers, resulting in Plaintiff's sexual abuse by the older boys at the facility.

#### **Diocese's Concealment of Acts of Sexual Abuse by Priests**

24. The Bishop of the Diocese at all relevant times knew that Priests of the Diocese, under his supervision and control, were grooming and sexually molesting children with whom the Priests would have contact in their ministry and pastoral functions. At all relevant times, the Bishop knew that this was a widespread, ubiquitous and systemic problem in the Diocese, involving many Priests and numerous victims.

25. In 1922, the Holy See released a confidential document to its Bishops and other officials of Catholic organizations regarding the handling of cases of solicitation of sex in the confessional. This document mandated a specific procedure for Holy See's agents, including the Bishop of the Diocese, to use when a cleric abused children using the confessional. This document required strict secrecy. The 1922 document showed that the Holy See and its agents were fully aware that there was a systemic problem of clergy sexually molesting children using the confessional.

26. In 1962, the Holy See released the confidential document, *Instruction on The Manner of Proceeding in Cases of Solicitation* (The Vatican Press, 1962) (hereinafter referred to as "*Crimen Sollicitationis*"). The heading of the document states, "From the Supreme and Holy

Congregation of the Holy Office to All Patriarchs, Archbishops, Bishops and Other Diocesan Ordinaries 'Even of the Oriental Rite,'" and contains specific instructions regarding the handling of child sex abuse by clergy. According to the document itself, it is an "instruction, ordering upon those to whom it pertains to keep and observe it in the minutest detail." *Crimen Sollicitationis* at paragraph 24.

27. The 1962 document reinforced that the Holy See and its agents to whom the documents was directed had knowledge that there was a systemic problem of Catholic clergy sexually molesting children using the confessional.

28. At the same time, the Holy See was involved in the formation of secret facilities in the United States where sexually offending clergy would be sent for short periods of time. In 1962-63, Fr. Gerald Fitzgerald reported to the Pope on the problem of abuse of children by clergy and expressed concerns if these priests were returned to active duty.

29. Fr. Fitzgerald's reports were kept secret under the Holy See's standing policy to avoid scandal at all costs. It's recommendation was ignored, however, and instead the Holy See made a choice to return known offending priests to active duty. At this point, it is clear that the Holy See and its agents, including the Diocese, knew they had a widespread problem of clergy sexually molesting minors, and they participated in the creation and the operation of facilities in the United States where sexually offending clergy could be sent before they were moved to another parish to work and potentially abuse again.

30. The Holy See's policy of secrecy under penalty of immediate removal from the organization (excommunication) for all involved in an accusation of child sexual abuse created a shroud of secrecy insulating Priests from consequence. Through this policy and others, the Holy

See and its agents, including the Diocese, knowingly allowed, permitted and encouraged child sex abuse by the Diocese's Priests.

31. The Holy See mandates secrecy for all those involved, including agents and itself, in handling allegations of sexual abuse. Penalties for child sexual abuse include an order to move offending priests to other locations once they have been determined to be "delinquent." In response to allegations, the document mandates that supplementary penalties include: "As often as, in the prudent judgment of the Ordinary, it seems necessary for the amendment of the delinquent, for the removal of the near occasion [of soliciting in the future], or for the prevention of scandal or reparation for it, there should be added a prescription for a prohibition of remaining in a certain place." *Crimen Sollicitations* at paragraph 64. Under this policy of secrecy and transfers or reassignments, all involved are threatened with excommunication and, thus, damnation, if they do not comply.

32. The policy of secrecy and the severest of penalties for its violation were reiterated in documents issued by officials of the Holy See for the benefit of its agents, including the Bishop of the Diocese, in 1988 and 2001.

33. The policies and practices of the Diocese designed to conceal sexual abuse by clergy and protect it from scandal and liability included the following:

- (a) transfer and reassignment of clergy known or suspected to abuse minors to deflect attention from reports or allegations of child sexual abuse;
- (b) concealing from parishioners and even other clergy that a priest reassigned to their parish posed a danger of sexual abuse to children;
- (c) failing to alert parishioners from the Priest's prior assignments that their children were exposed to a known or suspected child molester;



(d) failing to report sexual abuse to criminal authorities; and

(e) otherwise protecting and fostering the interests of abusive clergy to the detriment of the victims and the community, for the purpose of avoiding scandal and public scrutiny.

34. Indeed, the policy of secrecy and lack of consequences for the sexual abuse of children was perceived as a perquisite by clergy sex abusers. The Holy See and Diocese believed it to be perceived as a perquisite, which it condoned and used to its advantage in controlling Priests.

35. Plaintiff was in a zone of foreseeable harm as a child engaged in Catholic activities in close proximity to or with Catholic clergy.

36. The Diocese was in the best position to protect against the risk of harm as it knew of the systemic problem and foreseeable proclivities of its Priests to sexually abuse children.

37. At all relevant times, while the Diocese had special and unique knowledge of the risk of child sexual abuse by its Priests, such Priests who would prey on children were outside the reasonable contemplation of the Catholic community and families who trusted Priests to have access to their children.

38. Plaintiff and his guardians had no opportunity to protect Plaintiff against a danger that was solely within the knowledge of the Diocese.

39. Upon information and belief, after Plaintiff was abused, the Diocese engaged in a plan and scheme pursuant to the Holy See's secrecy policies and practices to avoid discovery of Father Hanna's child sexual abuse and the Diocese's wrongful conduct which facilitated the sexual abuse of young children.

**Nature of Conduct Alleged**

40. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

41. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Father Hanna, to retain Father Hanna in ministry with unfettered access to children.

**COUNT I**  
**NEGLIGENCE**  
(against St. Joseph's Villa)

42. Plaintiff repeats and realleges Paragraphs 1 through 41 above.

43. At all material times, St. Joseph's Villa and Plaintiff were in a special relationship of in loco parentis in which St. Joseph's Villa owed Plaintiff a duty of reasonable care.

44. St. Joseph's Villa owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of St. Joseph's Villa. St. Joseph's Villa's duties encompassed providing a safe environment for Plaintiff.

45. St. Joseph's Villa breached these duties by failing to protect the minor J.O. from

sexual assault and lewd and lascivious acts committed by an agent and employee of St. Joseph's Villa.

46. At all relevant times, the St. Joseph's Villa created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

47. At all relevant times, the St. Joseph's Villa had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

48. As a direct and proximate result of St. Joseph's Villa's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

49. St. Joseph's Villa acts and conduct shows a reckless or willful disregard for the safety and well-being of J.O.

WHEREFORE, Plaintiff demands judgment against St. Joseph's Villa for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

**COUNT II**  
**NEGLIGENCE**  
(against the Diocese)

50. Plaintiff repeats and realleges Paragraphs 1 through 41 above.

51. At all material times the Diocese, as principal, and the Church, as agent, were in an agency relationship, such that the Church acted on the Diocese's behalf, in accordance with the Diocese's instructions and directions on all matters, including those relating to clergy personnel. The acts and omissions of the Church were subject to the Diocese's plenary control, and St. Joseph's Villa consented to act subject to the Diocese's control.

52. At all material times, the Diocese and Plaintiff were in a special relationship of, in which the Diocese owed Plaintiff a duty of reasonable care.

53. At all material times, the Diocese and Father Hanna were in a special relationship of employer – employee, in which the Diocese owed a duty to control the acts and conduct of Father Hanna to prevent foreseeable harm.

54. The Diocese owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of the Diocese. The Diocese's duties encompassed the retention and supervision of Father Hanna and otherwise providing a safe environment for Plaintiff.

55. The Diocese breached these duties by failing to protect the minor J.O. from sexual assault and lewd and lascivious acts committed by an agent and employee of the Diocese.

56. At all relevant times, the Diocese created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

57. At all relevant times, the Diocese had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

58. As a direct and proximate result of the Diocese's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

59. The Diocese's acts and conduct shows a reckless or willful disregard for the safety and well-being of J.O.

WHEREFORE, Plaintiff demands judgment against the Diocese for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

**COUNT III**  
**NEGLIGENCE**  
(against the Sisters of St. Joseph)

1. Plaintiff repeats and realleges Paragraphs 1 through 41 above.

2. At all material times the Sisters of St. Joseph were in a special relationship of in loco parentis, in which the Diocese owed Plaintiff a duty of reasonable care.

3. The Sisters of St. Joseph owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of the Sisters of St. Joseph. The Sisters of St. Joseph's duties encompassed providing a safe environment for Plaintiff.

4. The Sisters of St. Joseph breached these duties by failing to protect the minor J.O. from sexual assault and lewd and lascivious acts committed by Father Hanna after receiving actual and/ or constructive notice of J.O. being sexually abused by Father Hanna and other boys at St. Joseph's Villa.

5. At all relevant times, the Sisters of St. Joseph created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

6. At all relevant times, the Sisters of St. Joseph had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

7. As a direct and proximate result of the Sisters of St. Joseph's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

8. Sisters of St. Joseph's acts and conduct shows a reckless or willful disregard for the safety and well-being of J.O.

WHEREFORE, Plaintiff demands judgment against the Sisters of St. Joseph for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial in this action.

Dated: New York, New York  
August 28, 2019

By: \_\_\_\_\_

Jeff Herman

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